

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

PETER ROSE,

Plaintiff,

v.

JOHN DOWD,

Defendant.

C.A. No. 2:16-cv-03681-PBT

DECLARATION OF MARTIN GARBUS

MARTIN GARBUS, pursuant to the provisions of 28 U.S.C. § 1746, states:

1. I am of counsel to the firm of Eaton & Van Winkle LLP and attorney for Plaintiff Peter Rose (“Rose”). I have been admitted *pro hac vice* in this Court. I have personal knowledge of the facts stated in this declaration.

2. This declaration is in opposition to the motion in the above-captioned lawsuit, pursuant to Federal Rule of Civil Procedure (“FRCP”) 33, 34, 36 and 37, seeking to compel certain discovery, made by Defendant John Dowd (“Dowd”), President Donald Trump’s chief lawyer in resisting the investigations into him and his associates by Special Counsel Robert Mueller, the Senate and House Intelligence Committees, Senate Judiciary Subcommittee on Crime and Terrorism, and House Oversight and Government Reform Committee.

3. Dowd libeled Rose in one of the most awful ways when he said, point blank, “**Michael Bertolini, you know, told us that he not only ran bets but he ran young girls for him down at spring training, ages 12 to 14. Isn't that lovely. So that's statutory rape every time you do that.**”

4. Dowd made four specific, factual allegations: (i) that Rose slept with 12 to 14 year olds; (ii) that in doing so, he violated criminal laws constituting statutory rape; (iii) that he trafficked these 12 to 14 year olds; and (iv) it occurred during spring training. Every single factual allegation he made is libelous and false.

5. Dowd does not contend that he had any personal knowledge of these alleged facts. He relies solely on the words of Michael Bertolini, who states that he never said any of those things. For the last six months, Dowd and his investigators have scoured the country to find any woman who would support these allegations. He found none. He found one woman ("Doe") who claims only to have known Rose in Cincinnati -- not down at spring training -- when she was 14 or 15, and that she had a sexual relationship with Rose before she turned sixteen. She studiously does not say when she had sex with him over that two year span. This woman, who has never before surfaced, makes these allegations (according to Dowd) more than 40 years later. Dowd does not claim there are any witnesses to any of these alleged acts or that any person other than the woman had personal knowledge of them. Dowd's allegations are totally false.

6. With respect to Dowd's several libels against Rose, Doe does not refer to any. She does not refer to spring training; she does not claim he trafficked her or other women; she does not claim to have been 12, 13 or 14 years old.

7. Doe is no stranger to lying. She has been previously convicted of two theft offenses. She was also indicted for embezzlement of monies from her employer, which was a third degree felony. She pleaded no contest, was found guilty, and sentenced.

8. Dowd has made allegations against special counsel Robert Mueller and U.S. attorneys, who are also objects of his libels. Most recently, Dowd, Donald Trump's chief lawyer, circulated a racist and bigoted email to, reportedly, more than two dozen people, including a senior official at the Department of Homeland Security and several journalists. That email reportedly contended, among other things, that (a) "You cannot be against General Lee and be for General Washington," ... "there literally is no difference between the two men."; (b) Black Lives Matter is being directed by terrorists; (c) compared secessionists to the Founding Fathers; and (d) the Charlottesville protestors should "go back to the ghettos and do raise their children and rebuild places like Detroit."¹ A New York Times article discussing the email can be found at <https://www.nytimes.com/2017/08/16/us/politics/trump-lawyer-email-race-charlottesville.html?mcubz=1>.

9. There is a long history of Dowd's malice toward Rose. He has libeled and attempted to bully Pete Rose in other instances, in the same way he is doing here; and in the same way he has tried to lie about and bully other people, including some of the most respected law enforcement officers in the country.

10. Ever since Rose was placed on MLB's Ineligible List, Dowd has sought to burnish his own reputation at Rose's expense and made it his personal mission to prevent Rose from ever being reinstated or elected to the Hall of Fame. He will do or say anything to accomplish his mission.

11. That is why Dowd made up his story about Rose, as I believe the proof will show. In discovery, Dowd has admitted that (i) he made the defamatory *per se* statements about Rose based on what Mr. Bertolini had (allegedly) told him; (ii) he took

¹ The subject line of the email was "The Information that Validates President Trump on Charlottesville".

no steps to verify the truth or falsity of what Bertolini had (allegedly) told him; and (iii) he does not know anyone whom Bertolini (allegedly) “ran” for Rose. Attached hereto as Exhibit A is a true and correct copy of Dowd’s Response to Rose’s Second Set of Interrogatory Requests; *see*, Responses 2-5.

12. Bertolini, through his lawyer, has publicly denied that he told Dowd any such thing. As Dowd himself has admitted in his interrogatory responses, “I cannot recall verbatim the words Mr. Bertolini [allegedly] used”. Ex. A, Response No. 1.

13. This is not the first time Dowd has publicly lied about Rose to discourage his reinstatement with MLB. Reportedly, Bud Selig, MLB’s former Commissioner, was seriously considering Rose’s request for reinstatement and met with Rose on November 25, 2002. Soon after, on the very same day in December, 2002, the NY Daily News and the NY Post both ran stories carrying quotes from Dowd. To the Daily News, he admitted he did not find any evidence that Rose bet on the Cincinnati Reds to lose. But to the Post, he falsely claimed he had “reliable evidence” on that issue that he did not have enough time to put in his report.

14. Nor is this the first time Dowd has made baseless, unhinged, reprehensible comments about people relating to a subject in which he was too deeply invested. Dowd was defending Raj Rajaratnam in a suit brought against him by U.S. Attorney Preet Bharara’s office for fraud and conspiracy. During the trial, he libeled both the Wall Street Journal and Mr. Bharara (who was fired by Mr. Trump) for no reason at all and with no facts to back up his allegations. He accused Mr. Bharara of attempting to smear witnesses, saying he was “scared shitless”, and of “feed[ing] his whores at the WSJ” with information. His full statement is set forth below. Peter Lattman, a former reporter for the

New York Times and Wall Street Journal, covered the trial and recently posted online the email Dowd had sent to Chad Brad of the WSJ during the trial.

The email said:

This is the worst piece of whoring journalism I have read in a long time. How long are you going to suck Preet's teat?

All to hurt a decent, honest witness, Brodsky could not lay a glove on.

It did not work. The jury was not impressed by the worst cross examination ever delivered.

So in the style of Preet, try to smear him by working the sycophants in the back of the Courtroom. He learned from Schumer in the Senate...

Preet is scared shitless he is going to lose this case so he feeds his whores at the WSJ.

What a disgrace for an otherwise great paper

<https://twitter.com/peterlattman/status/876076718766919681>

Raj Rajaratnam was convicted on all fourteen counts.

15. Dowd's penchant for baseless accusations, exploitation and duplicity (as it pertains to his own conduct in this case) is similar to accusations of Mr. Trump (showing the same personality traits as Mr. Trump). They were recently on full, public display, when he interjected himself into reports about the FBI's raid of the home of Paul Manafort (former head of the Trump campaign but a man he does not even represent). In a 3:48 a.m. email he reportedly sent a Wall Street Journal reporter, among his notable statements was his charge that the FBI's request for a search warrant was an "extraordinary invasion of privacy". Dowd also reportedly wrote:

"Thus, it appears the search warrant here was obtained by a gross abuse of the judicial process by the special counsel's office. In addition, given the obvious unlawful deficiencies, this extraordinary invasive tool was employed for its shock value to try to intimidate Mr. Manafort and bring him to his needs (sic)," Dowd added. "These methods are normally found and employed in Russia not America."

<http://www.washingtonexaminer.com/trump-lawyer-john-dowd-robert-muellers-team-using-tactics-employed-in-russia-not-america/article/2631186>

16. Dowd's volatility has also been on public display. When CNBC sought to interview him after the jury convicted Raj Rajaratnam on all fourteen counts, he "flipped the bird" to the cameraman. That obscenity is viewable at

<https://www.youtube.com/watch?v=ZDvbN3oyaMk>

17. We believe the proof will show that Dowd's investigator, as she did with other people who were approached, lied to Doe in order to get a declaration that is legally meaningless. The declaration was obtained and publicly filed solely in an effort to intimidate and hurt Pete Rose. It is part of the continuing libel waged by Dowd. His relentlessness here is like the bigotry and falsities Dowd rendered earlier in August of this year as well as the falsities he has uttered against law enforcement quite recently.

18. Because (I believe the proof will show) Dowd made up his story about Rose, Dowd's investigators have been desperately combing the country to find any dirt on Rose. That is because, as Dowd has already admitted, he had no valid basis for his false and defamatory *per se* statements about Rose.

19. In seeking any dirt they can publicly smear on Rose, several of Rose's ex-girlfriends, his ex-wives and other people in his life have advised that they have been aggressively approached and interrogated by those investigators. Two such people were told they were already on the witness list, so they should just talk (to the investigator). Those were lies. Neither person is a witness named on Dowd's or Rose's FRCP initial disclosures.

20. Given the swiftness with which the press reported on Dowd's motion to compel, and the nature of the contentions of the woman identified as "Doe", it is my belief that Dowd (or his lawyers) provided the press with advance notice of the filing, to

try to publicly embarrass and humiliate Rose. It is also my belief that his motion is baseless and only a pretext for making Doe's allegations public.

21. We have known about Doe's allegations for months, because Dowd's counsel notified us of her allegations within days after she signed her declaration. Her declaration (although clearly not in any way probative of the truth or falsity of Dowd's defamatory *per se* accusations against Rose, as they must be to meet constitutional muster) is the only thing they have ever come up with in their efforts to discredit Rose and deter him from seeking recourse for Dowd's reckless statements. It is my belief that her declaration was coerced or induced given, among other things, the aggressive tactics that have been reported to me about Dowd's investigators. Rose vehemently denies her allegations.

22. Dowd's smear tactics have, unfortunately, been successful to some degree. In direct response to his public filing of the Doe declaration, and the media reports surrounding it, a Philadelphia sports roast with Rose as the guest of honor was cancelled, as was an autograph signing to be held before his induction into the Philadelphia Wall of Fame, which was also cancelled.

23. Accompanying my declaration is the declaration of someone close to Doe for many years. Doe told him about Rose early in their relationship. She told him that she was 18 when they dated (not 15); and she never said that she had sexual relations with him before she was 18.² This strengthens my belief that her declaration was coerced or induced, along with the inexplicable passage of over 40 years before coming forward.

² Rose did not leave Cincinnati to join the Philadelphia Phillies until 1979, when Doe would have purportedly been 20 years old.

24. Attached hereto as Exhibit B is a true and correct copy of Rose's response to Dowd's Third Set of Requests for Admissions, which was omitted from his moving papers, and is referenced in the accompanying brief in opposition to Dowd's motion.

I declare under the penalty of perjury that the foregoing is true and correct.

Executed on August 25, 2017 in New York, New York.

/s/ Martin Garbus
Martin Garbus